

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-100-C - ORDER NO. 2006-76
FEBRUARY 27, 2006

IN RE: Generic Proceeding to Investigate Emergency) ORDER ADOPTING
Services Continuity Plans) CONSENSUS
) DOCUMENT/PROPOSED
) ORDER

On April 3, 2003, the Public Service Commission of South Carolina (the Commission) issued Order No. 2003-218 (the Order), wherein the Commission established a generic docket regarding emergency-type services. In the Order, the Commission found that the general concept of an emergency services continuity plan should be investigated. The Commission stated in the Order that it was interested in pursuing the general concept that emergency continuity plans do not create an unjust and unwarranted competitive advantage for the provider of the emergency services. In sum, in the Order, the Commission established a generic docket to investigate emergency services continuity plans in general and their various ramifications.

In its Supplemental Notice of Generic Proceeding, the Commission stated that it was interested in hearing information regarding the following issues, at a minimum: what, if any, emergency service continuity plan should be adopted by the Commission for customers who have lost service due to a service provider's abandonment of service; maintenance of emergency service access during periods of suspension of service;

recovery of costs for providing interim service; and appropriate use of customer service record information. A hearing was set for August 31, 2005.

Prior to that date, the parties requested that the hearing be postponed, and further requested ninety (90) days to work toward a consensus on the issues raised in the proceeding. This request was granted in Order No. 2005-462, dated September 7, 2005. A hearing was then set for January 18, 2006. Prior to January 18, 2006, the parties further requested that the Commission hold a workshop rather than a formal hearing to consider the matters before the Commission. We approved this request also, through Order No. 2005-740, dated December 16, 2005.

The workshop was held as scheduled on January 18, 2006 with the Commissioners and most of the parties in attendance. The parties discussed a Consensus Document/Proposed Order (the Document) drafted after a series of working meetings involving the parties. The parties now request that this Commission adopt the Document as an order in this case. This Document is attached hereto as Order Exhibit No. 1. After due consideration, we adopt the Document as our Order herein.

The Document states that each incumbent local exchange carrier (ILEC) shall cooperate with the Office of Regulatory Staff (ORS) to develop a mutually-acceptable process for the ILEC to notify the ORS when, based on the ILEC's experience, treatment action for breach of contract or nonpayment for wholesale services that will result in interruption of service to a competitive local exchange carrier's (CLEC's) end users is imminent. Such notification shall include any information in the ILEC's possession that may assist the ORS in contacting the appropriate representatives of the CLEC to discuss

the situation. In short, after receiving this information ORS shall contact the CLEC and take measures to ensure that the CLEC complies with its obligation to notify its end user customers sufficiently in advance of the date on which the ILEC will terminate wholesale service to the CLEC. If the ORS believes that the Commission should address any issues related to termination of CLEC service on an expedited basis, the ORS should file an appropriate pleading and conspicuously designate the pleading as requiring expedited consideration, pursuant to this Order. Further, the Document goes on to state that the Commission will use all appropriate measures, including without limitation the use of hearing officers, to consider, and if appropriate, rule on such matters on an emergency and expedited basis.

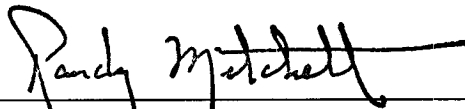
The Document continues by noting, *inter alia*, that unless the Commission rules otherwise based on a finding of extraordinary circumstances and after notice and opportunity for hearing, if the ILEC complies with the notice provisions of the first paragraph, then in no event shall the ILEC be obligated to provide service to end user customers of a CLEC after termination of service to the CLEC unless the end user customer specifically requests service from the ILEC and otherwise satisfies eligibility requirements imposed by the ILEC on other customers in the normal course of business. The Document contains further details.

We have fully examined the Document and we do hereby adopt it as the Order of the Commission as fully as if it was presented herein verbatim as a reasonable methodology to address the need for emergency services in the context of the telephone industry. A copy of this Order and Exhibit 1 to that Order shall be mailed to the contact

address on file with the Commission for each telephone utility in this State, and a copy of this Order and Exhibit 1 to that Order shall be posted on the Commission's website.


This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Randy Mitchell, Chairman

ATTEST:



G. O'Neal Hamilton, Vice-Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2005-100-C

IN RE:

Generic Proceeding to Investigate)	CONSENSUS DOCUMENT/ PROPOSED ORDER TO BE DISCUSSED IN COMMISSION WORKSHOP
Emergency Services Continuity)	
Plans)	
_____)	

The Commission established this generic docket to investigate emergency service continuity plans in general and their various ramifications.¹ After several parties intervened and pre-filed testimony in this docket, Verizon South, Inc. ("Verizon"), the Office of Regulatory Staff ("ORS"), BellSouth Telecommunications, Inc. ("BellSouth"), and United Telephone of the Carolinas ("Sprint") requested that the Commission postpone the hearing in this docket so a working group could be established in an effort to reach consensus on the issues raised in this proceeding. The Commission subsequently entered an Order granting this request.²

The participants in the working group³ have presented evidence regarding their collective experiences and recommendations in workshop meetings with the other parties

¹ See Order Dismissing Petition and Establishing Generic Proceeding, *In Re: Tariff Filing by BellSouth*, Order No. 2003-218 in Docket No. 2003-89-C (April 3, 2003).

² See Order Granting Request for Postponement of Hearing, *In Re: Generic Proceeding to Investigate Emergency Services Continuity Plans*, Order No. 2005-462 in Docket No. 2005-100-C (September 7, 2005).

on September 14 and October 6, 2005. Additionally, the other parties to this docket were made aware of these recommendations and these matters were discussed in an open workshop before the Commission. The consensus opinion of the parties to this proceeding is that the issues the Commission identified in this docket arise when a competitive local exchange carrier ("CLEC") discontinues service in this State without complying with applicable law that, among other things, requires such a CLEC to provide notice to its end user customers.⁴ This often occurs when a CLEC orders services from an incumbent local exchange carrier ("ILEC"), fails to pay for those services, and as a result, the ILEC takes treatment action that results in interruption of the CLEC's end users' service.

These situations have not been common in South Carolina, and when they have arisen, they typically have involved CLECs that predominately served end users who owed unpaid balances to the ILEC and, therefore, were not eligible to receive service from the ILEC. Additionally, these situations have, at times, created issues that affect the CLEC's end users. In some cases, the end users have received little or no notice from the CLEC that it is discontinuing service. Also, in some cases the CLEC has placed preferred carrier freezes on its end users' accounts, and the end users have had difficulty obtaining service from another provider without changing telephone numbers.

³ The following parties participated in the working group: ORS, South Carolina Telephone Coalition, BellSouth, Sprint, US LEC and Verizon.

⁴ See, e.g., 47 C.F.R. §63.71; First Report & Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129, *In the Matter of 2000 Biennial Review – Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, 16 F.C.C. Rcd 11218 (May 7, 2001); 47 C.F.R. §64.1120. See also S.C. Code Ann. §58-9-300.

Based upon careful consideration of the evidence presented in this docket, the Commission finds that any action it takes in this docket must appropriately balance: (1) an end user's freedom to choose from among any alternative service options that are available; and (2) a service provider's right to decline to provide service to an end user for any reason allowed by controlling authority (including without limitation tariff provisions and Commission rules, regulations, and orders); and (3) the obligations of the CLEC that is exiting the market. The Commission finds that taking the following action described below will appropriately balance these interests.

Thus, it is hereby ordered that:

1. Each ILEC shall cooperate with the ORS to develop a mutually-acceptable process for the ILEC to notify the ORS when, based on the ILEC's experience, treatment action for breach of contract or nonpayment for wholesale services that will result in interruption of service to a CLEC's end users is imminent. Such notification shall include any information in the ILEC's possession that may assist the ORS in contacting the appropriate representatives of the CLEC to discuss the situation. The ILEC may, at its option, meet this notification requirement by copying the ORS on termination notices issued to a CLEC and updating the ORS if the CLEC timely satisfies the claim. Such notification must be provided to the ORS at least five (5) days prior to the termination of service to the CLEC.

2. After receiving the notification identified in paragraph (1), the ORS shall contact the CLEC and take measures to ensure that the CLEC complies with its obligation to notify its end user customers sufficiently in advance of the date on which the ILEC will terminate wholesale service to the CLEC. In no event may the ORS shift

the burden of providing notice to CLEC customers to the ILEC. If the ORS believes the Commission should address any issues related to such termination of CLEC service on an expedited basis (including without limitation removal of preferred carrier freezes or obtaining information necessary for the ORS or the Commission to provide notice to CLEC end users where the CLEC fails to do so), the ORS should file an appropriate pleading and conspicuously designate the pleading as requiring expedited consideration pursuant to this Order. The Commission will use all appropriate measures, including without limitation the use of hearing officers, to consider and, if appropriate, rule on such matters on an emergency and expedited basis.

3. Unless the Commission rules otherwise based on a finding of extraordinary circumstances and after notice and opportunity for hearing, if the ILEC complies with the notice provisions of paragraph (1), then in no event shall the ILEC be obligated to provide service to end user customers of a CLEC after termination of service to the CLEC unless the end user customer specifically requests service from the ILEC and otherwise satisfies eligibility requirements imposed by the ILEC on other customers in the normal course of business.

4. A copy of this Order shall be mailed to the contact address on file with the Commission for each telephone utility in this State, and a copy of this Order shall be posted on the Commission's website.